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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/692,963

10/24/2003

Glen Robak

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06/22/2006

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EXAMINER

GILBERT, WILLIAM V

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,963

Applicant(s)

ROBAK ET AL.

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 7 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant made this election per telephone conversation dated 08 June 2006 at 16:20 EST.

Claims 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 19 April 2006.

Applicant's election with traverse of Claims 1-6 in the reply filed on 19 April 2006 and telephone conversation dated 08 June 2006 is acknowledged. The traversal is on the ground(s) that the Applicant requests the Office to reconsider the current number of claim groupings. See Remarks section of Applicant's response dated 19 April 2006. This is not found persuasive because Applicant provided no argument as to why rejoinder should be proper except that the Office reconsider the restriction.

The requirement is still deemed proper and is therefore made FINAL.

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Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Aschheim (U.S. Patent No. 6,012,256).

Regarding Claim 1, Aschheim discloses castellated beam (3, Figure 8, generally) with a first beam section (see element A of attached Figure 8 from Aschheim, below) having a cut line pattern defining a plurality of first beam section lands (see element B of attached Figure 8 from Aschheim, below) and grooves (see element C of attached Figure 8 from Aschheim, below) and a second beam section (see element D of attached Figure 8 from Aschheim, below) having a cut line pattern defining a plurality of second beam section lands (see element E of attached Figure 8 from Aschheim, below) and grooves (see element F of attached Figure 8 from Aschheim, below) said first beam lands being connected with second beam section lands (Column 10, lines 14-20; see Figure 8, generally), and the beam contains wood (Column 1, lines 22-25).



(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aschheim.

Regarding Claim 2, Aschheim discloses the first beam section connected with the second beam section (Column 10, lines 14-20), but discloses that the first and second portions be connected by a weld, which implies beams of a metallic composition. As noted in the rejection of Claim 1, above, however, Aschheim does disclose that the beam may be made of wood (see Column 1, lines 22-25). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to attach wood members with either adhesive or mechanical fasteners because it is well known in the art that

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either adhesive and/or mechanical fasteners are used to connect wood products.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aschheim in view of Brightwell (U.S. Patent No. 4,715,162).

Regarding Claim 5, Aschheim discloses the claimed invention except that the beam is made from oriented strand board. Brightwell discloses a wooden beam (Figure 1, generally) made of oriented strand board (Column 2, lines 42-25). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the castellated beam in Aschheim out of oriented strand board as disclosed in Brightwell. One would have been motivated to make such a modification because it is well known in the art to make wooden structural members out of oriented strand board because it performs equally as well as structural members made of other various wood types.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Further prior art in reference to the rejection of Claim 2, Patel (U.S. Patent No. 6,938,391 B1); see Column 2, lines 10-18 where the castellated beam could be formed of wood; see Column 6, lines 7-

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10 for the disclosure of the connection of the sections of the beam. The broad disclosure of the connection in Patel does not limit the connection to a weld as noted in Aschheim (see above) and encompasses the appropriate connection for the material used to make the beam (i.e. adhesive or mechanical fastener for the wood beam as in Claim 2.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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06/20/06



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